

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Tony Hines,

Plaintiff

v.

Darren Spiece,

Defendant

Case No.: 2:18-cv-02373-JAD-NJK

Order Denying Motions

[ECF Nos. 76, 78]

Pro se plaintiff Tony Hines moves for reconsideration of this court’s order granting summary judgment to defendant Darren Spiece on Hines’s civil-rights claims—an order he has already appealed.¹ Federal “district court[s] lack[] jurisdiction to entertain [a Federal Rule of Civil Procedure (FRCP)] 60(b) motion [that] was filed after [a] notice of appeal” because such a notice “strip[s] the district court of its jurisdiction.”² Under FRCP 62.1, if a court is presented with “a request for relief that it lacks authority to grant because of an appeal that has been docketed and is pending, the court may . . . deny the motion” on that basis,³ and I do.

Hines also moves for “certification of question(s) of fact(s)” under Federal Rule of Appellate Procedure (FRAP) 44.⁴ But district courts are governed by the FRCP, not the FRAP, so FRAP 44 cannot be applied to his case in this court.⁵ Although FRAP 44 has a counterpart in FRCP 5.1, both rules concern federal courts’ duty to inform the Attorney General of the United

¹ ECF No. 76 (motion for reconsideration); ECF No. 69 (summary-judgment order); ECF No. 71 (notice of appeal).

² *Katzir’s Floor & Home Design, Inc. v. M-MLS.com*, 394 F.3d 1143, 1148 (9th Cir. 2004).

³ Fed. R. Civ. P. 62.1.

⁴ ECF No. 78 (citing Fed. R. App. P. 44).

⁵ *Compare* Fed. R. Civ. P. 1 *with* Fed. R. App. P. 1.

1 States or the attorney general of a state when a case questions the constitutionality of a federal or
2 state statute, respectively—not questions of fact in a case.⁶ So neither FRAP 44 nor FRCP 5.1
3 provides a vehicle for the result Hines seeks. Accordingly,

4 IT IS ORDERED that Hines's motions [ECF Nos. 76, 78] are **DENIED**.

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7 U.S. District Judge Jennifer A. Dorsey
8 August 9, 2022
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⁶ Compare Fed. R. Civ. P. 5.1 with Fed. R. App. P. 44.